

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) **CRIMINAL NO. SA-13-CR-785-OLG**
)
RAUL GONZALEZ, JR.,)
)
Defendant.)

JOINT MOTION TO SET ASIDE FINAL JUDGMENT OF FORFEITURE

Comes now the United States of America, by and through the United States Attorney for the Western District of Texas and the undersigned Assistant United States Attorney, and Petitioner Raul Gonzalez Trevino, Individually and as Trustee of the Raul Gonzalez Trevino Living Trust, by and through his attorneys, John A. Convery, and Ricardo G. Cedillo, (hereinafter the Parties), and file this Joint Motion to Set Aside Final Judgment of Forfeiture, and in support thereof state the following:

I.

On September 25, 2018, this Court entered a Final Judgment of Forfeiture (Doc. 112), in which the Court ordered the forfeiture to the United States of certain properties, namely:

Real Property located at **5 Bowood Court, San Antonio, Bexar County, Texas 78218**, more particularly described as Lot 5, Block 10, New City Block 17500, Oakwell Farms Unit 9-A, In the City of San Antonio, Bexar County, Texas, According to the Plat Thereof Recorded in Volume 9514, Page 192-194, Deed and Plat Records of Bexar County, Texas,

hereinafter referred to as the “Subject Real Property.”¹

¹ \$120,000 in United States Currency was also ordered forfeited in the Court’s Final Judgment of Forfeiture (Doc. 112). The United States advises the Court that this currency has been forfeited, and has been disposed of according to law.

The Final Judgment of Forfeiture ordered that the petitions filed by Petitioner Raul Gonzalez Trevino (Individually and as Trustee of the Raul Gonzalez Trevino Living Trust), and by Alejandra Paola Ibarra Vazquez (Docs. 93 and 94), and the petitions filed by Rodrigo Rosendo Gonzalez Fernandez and Melissa Gonzalez (Docs. 92 and 95) be held in default.²

The Final Judgment of Forfeiture also ordered that the United States Department of Homeland Security, and/or its designated agents, shall dispose of the Subject Real Property in accordance with law.

II.

The Parties now jointly file the instant motion to advise the Court that in light of certain equitable considerations agreed to by the Parties, and certain factors recognized in Rule 60(b), Petitioner Raul Gonzalez Trevino, Individually and as Trustee of the Raul Gonzalez Trevino Living Trust, is entitled to proceed in this Court; and the Parties also agree that the United States will no longer seek the forfeiture of the Subject Real Property. Therefore, the Parties move for the Final Judgment of Forfeiture (Doc. 112) to be set aside. The United States also advises the Court that it will file a Removal of Lis Pendens for the Subject Real Property.

Further, Petitioner Raul Gonzalez Trevino, Individually and as Trustee of the Raul Gonzalez Trevino Living Trust, his heirs, executors, administrators, or assigns, stipulates and agrees to release and forever discharge the United States of America and the United States Department of Homeland Security and/or its individual agents, servants and/or employees from any and all claims for any damages resulting from the seizure, retention, custody and/or forfeiture of the Subject Real Property.

² On May 9, 2018, the Court entered an Order (Doc. 107) dismissing these petitions; therefore, the Court's Final Judgment of Forfeiture ordered the default of these petitioners' interest in the properties sought for forfeiture.

WHEREFORE, PREMISES CONSIDERED, the Parties move this Honorable Court to set aside the Final Judgment of Forfeiture (Doc. 112) entered in the above-styled and numbered criminal cause.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 28, 2019, the foregoing instrument was electronically filed with the Clerk of the Court using the CM/ECF System which will transmit notification of such filing to the following CM/ECF participants:

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ORDER TO SET ASIDE FINAL JUDGMENT OF FORFEITURE

Came on to be considered the Joint Motion to Set Aside Final Judgment of Forfeiture (Doc. _____) filed in the instant case, and the Court is of the opinion that said motion is meritorious and well-founded, and hereby is, in all things GRANTED. IT IS THEREFORE, ORDERED that Petitioner Raul Gonzalez Trevino, Individually and as Trustee of the Raul Gonzalez Trevino Living Trust, may proceed under Fed. R. Civ. P. 60(b); and IT IS FURTHER, ORDERED that the Final Judgment of Forfeiture (Doc. 112) is set aside and the United States will not proceed with the forfeiture of certain real property, namely:

Real Property located at **5 Bowood Court, San Antonio, Bexar County, Texas 78218**, more particularly described as Lot 5, Block 10, New City Block 17500, Oakwell Farms Unit 9-A, In the City of San Antonio, Bexar County, Texas, According to the Plat Thereof Recorded in Volume 9514, Page 192-194, Deed and Plat Records of Bexar County, Texas,

hereinafter the Subject Real Property; and IT IS FURTHER,

ORDERED that the United States shall properly record a Removal of Lis Pendens for the Subject Real Property.

IT IS SO ORDERED.

SIGNED this _____ day of _____, 2019.

ORLANDO L. GARCIA
CHIEF UNITED STATES DISTRICT JUDGE